

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRISTIN HARDY,
Plaintiff
v.
R. MORENO, et al.,
Defendant

Case No. 1:21-cv-00327-ADA-EPG (PC)

**ORDER GRANTING DEFENDANTS'
EX PARTE APPLICATION TO MODIFY
THE COURT'S SCHEDULING ORDER
(ECF NO. 58)**

(ECF No. 124)

On December 5, 2022, defendants Valencia, Moreno, Dohs, and Chavez (“Defendants”) filed an *ex parte* application to modify the scheduling order. (ECF No. 124). In particular, Defendants ask the Court to modify “the deadline to file motions to compel discovery for the limited purpose of compelling further deposition testimony.” (*Id.* at 1). Defendants seek the modification so that they will have an opportunity “to evaluate whether to seek a subsequent motion to compel Plaintiff’s deposition testimony.” (*Id.*). Defendants ask to be given until January 16, 2023, to file such a motion. (*Id.* at 2).

According to Defendants, Defendants noticed Plaintiff's deposition for August 23, 2022. (ECF No. 124, p. 3). However, Plaintiff refused to participate, and Defendants filed a motion to compel. (*Id.*). The Court granted the motion to compel, and also permitted defense counsel to question "Plaintiff regarding Plaintiff's commitment offense itself, the duration of the sentence related to Plaintiff's commitment offense, and the Rules Violation Report related to the incident at issue in this case." (*Id.*; ECF No. 116, p. 2).

“On November 16, 2022, Defendants served notice of Deposition on Plaintiff for a deposition on November 30, 2022.” (ECF No. 124, p. 3). The notice included a copy of the Court’s order. (*Id.*).

The deposition was held on November 30, 2022. (*Id.*). “However, Plaintiff refused to answer any question related to his commitment offense, length of sentence, and the Rules Violation Report at issue in this case. Instead, Plaintiff repeatedly states that the information Defendants sought could be located in CDCR records.” (*Id.* at 3-4) (citation omitted). Defense counsel “informed Plaintiff that his refusal to answer questions was in violation of the Court’s order,” but Plaintiff still refused to answer. (*Id.* at 4).

The Court finds good cause to grant Defendants' application.

Accordingly, IT IS HEREBY ORDERED that Defendants may bring a motion to compel further deposition testimony on or before January 16, 2023.

All unmodified terms and conditions of the Scheduling Order remain in full force and effect.

IT IS SO ORDERED.

Dated: **December 6, 2022**

/s/ Eric P. Gross
UNITED STATES MAGISTRATE JUDGE